

### III. REMARKS

Claims 1-31 are pending in this application. By this amendment, claim 1 has been amended. Applicant is not conceding in this application that those claims are not patentable over the art cited by the Office, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the subject matter. Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-31 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-40 of copending Application No. 10/805,963 in view of Application 10/78752. Claims 1-11 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 1-31 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Mitchell *et al.* (U.S. Patent No. 6,453,416 B1), hereafter “Mitchell.”

Applicants thank the Examiner for the telephone interview of December 7, 2007, with their representative, Hunter E. Webb. No proposed amendment was submitted in advance of the interview. In the interview, Applicant’s representative discussed the vague nature of the rejection as well as features of the claimed invention that Applicant asserts are not disclosed by Mitchell. The Examiner agreed with Applicant that Mitchell does not teach each and every feature of the claimed invention.

#### **A. REJECTION OF CLAIMS 1-11 UNDER 35 U.S.C. §101**

The Office has rejected claims 1-11 for allegedly being directed to non-statutory subject matter. Applicant has amended claim 1 to include hardware elements. Accordingly, Applicant requests that the rejection be withdrawn.

#### **B. REJECTION OF CLAIMS 1-31 UNDER 35 U.S.C. §102(e)**

With regard to the 35 U.S.C. §102(e) rejection over Mitchell, Applicant asserts that Mitchell does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 7, 21 and 22, Applicant submits that Mitchell fails to teach a tunable prerequisite resolution engine for client devices in an Open Service Gateway Initiative (OSGi) framework, comprising: a processor; and a memory, the memory including: a prerequisite computation system for determining, on a server, necessary prerequisites for one or more OSGi bundle(s) to be run on a client device; a bundle identification system for identifying possible combinations of OSGi bundles on the server that fulfill any of the necessary prerequisites that are lacking from the client device; a data access system for accessing a configuration corresponding to the client device, wherein the configuration sets forth computer resource types, and corresponding normalization factors and importance factors for the client device; and a bundle selection system for selecting a final combination of OSGi bundles from the possible combinations of OSGi bundles by processing the configuration and computing based on amounts of the computer resources needed by each of the possible combinations of OSGi bundles. The Office admits that Mitchell does not teach each and every feature of the claimed

invention. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

With respect to dependent claims, Applicant herein incorporates the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

#### **C. REJECTION OF CLAIMS 1-31 UNDER OBVIOUSNESS TYPE DOUBLE PATENTING**

Claims 1-31 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-40 of Application 10/805,963 in view of Application 10/78752. Initially, Applicant asserts that the cited applications do not teach or suggest the limitations of the claimed invention. Furthermore, Applicant will, if necessary, address this in a later paper with, e.g., a terminal disclaimer, upon an indication of allowable subject matter.

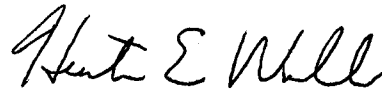
#### **IV. CONCLUSION**

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's

combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,



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